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February 5, 2024

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**VIA ECF**

Honorable Lorna G. Schofield  
United States District Court  
Southern District of New York  
500 Pearl St.  
New York, NY 10007-1312

Re: Joint Discovery Status Letter  
Timothy Rodgers v. Mercy College, et al., 23-cv-7278 (LGS)

Dear Judge Schofield:

Pursuant to Your Honor's Individual Rule III(D)(3) and the Court's February 2, 2024 Order (see Docket Entry No. 55), the parties submit this joint letter advising the Court of the status of discovery and the procedural history in the above-referenced matter.

**Discovery Status**

In accordance with the Civil Case Management Plan and Scheduling Order ("Case Management Plan"), Defendants Mercy College, Dr. Jose Herrera, and Dr. Timothy Hall (the "Mercy Defendants") served their First Set of Interrogatories and First Request for the Production of Documents (together, "Discovery Demands") on Plaintiff on December 15, 2023. Pursuant to the Case Management Plan, Plaintiff's responses were due on or before January 15, 2024. To date, the Mercy Defendants have not received any responses or documents in response to their Discovery Demands. On January 16, 2024, counsel for the Mercy Defendants emailed counsel for Plaintiff requesting Plaintiff's responses. Plaintiff did not respond to that email. On January 31, 2024, counsel for the Mercy Defendants again emailed counsel for Plaintiff requesting Plaintiff's responses. The Mercy Defendants also served Plaintiff with his Notice of Deposition, presently scheduled for February 14, 2024, in anticipation of the deposition deadline of February 22, 2024. Plaintiff's counsel responded the same day, stating that Plaintiff would "effort to have the response to [the Mercy Defendants] shortly." The Mercy Defendants are prepared to go forward with Plaintiff's February 14, 2024 deposition; however, they cannot do so if they do not have the entirety of Plaintiff's responses and Plaintiff's entire production.

Plaintiff is currently working on the responses to the Mercy Defendants' Discovery Demands, which the Mercy Defendants will have by February 6, 2024. Counsel for the Mercy Defendants informed counsel for Plaintiff that if Plaintiff supplied responses to their Discovery



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Honorable Lorna G. Schofield

February 5, 2024

Page 2

Demands by February 6, 2024, Plaintiff's deposition will go forward as scheduled. Additionally, Plaintiff's Counsel is currently in on trial, which started February 5, 2024, in the Eastern District of New York on another matter, notwithstanding that, Defendants will receive Plaintiff's initial Discovery Demands by the end of next week.

The Mercy Defendants note that Plaintiff's initial Discovery Demands were due December 15, 2023, and, in light of Plaintiff's intended delivery *after* the deposition date, the Mercy Defendants may have to adjourn Plaintiff's deposition.

### **Procedural History**

On August 16, 2023, Plaintiff filed his Complaint. On November 10, 2023, the Mercy Defendants filed a letter requesting a pre-motion conference for their intended motion to dismiss. On November 29, 2023, Plaintiff, the Mercy Defendants, and Dr. Latimer participated in a conference before Your Honor. During that conference, the Court urged the Mercy Defendants to proceed with discovery, rather than move to dismiss the Complaint. Per the Court's insistence, the Mercy Defendants filed their answer on January 5, 2024. That same day, Defendant Latimer filed a pre-motion letter requesting leave to file a motion to dismiss. This Court has set the conference for this pre-motion letter for February 7, 2024 at 4:15 p.m. Plaintiff, the Mercy Defendants, and Dr. Latimer intend to appear at this conference. At the time of this letter, Defendant Southard has not yet been served with the Complaint.

Thank you for your time and attention to this matter.

Respectfully submitted,

/s/ Albert D. Manuel III

/s/ Allison B. Gotfried

/s/ Sara E. Thompson

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